

Introduced by Senator Romero

February 22, 2005

An act to amend Section 13955 of the Government Code, to amend Sections 667.5, 1192.7, and 13519.8 of the Penal Code, to amend Sections 2800.1, 2800.2, 2800.3, and 17004.7 of, and to add Sections 1666.1, 2911, and 17005 to, the Vehicle Code, relating to vehicle pursuits, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1015, as introduced, Romero. Vehicle pursuits.

Existing law provides for compensation to crime victims, as specified, from the Restitution Fund, a continuously appropriated fund.

This bill would include as qualifying as a crime victim for those purposes, injury or death caused by any party where a peace officer is operating a motor vehicle in an effort to apprehend a suspect, and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer.

By expanding the uses of a continuously appropriated fund, this bill would make an appropriation.

Existing law, as amended by initiative, provides for sentencing enhancements for certain crimes categorized as "serious felonies." Existing law permits amendment of these provisions by a 2/3 vote of the Legislature.

This bill would add to the list of serious felonies, the offense of willful flight or attempt to elude a pursuing peace officer, while operating a motor vehicle, and causing death or serious injury, as specified.

By amending provisions of an initiative statute, this bill would require a 2/3 vote of the Legislature.

Existing law, as amended by initiative, provides for sentencing enhancements for certain crimes categorized as “violent felonies.” Existing law permits amendment of these provisions by a 2/3 vote of the Legislature.

This bill would add to the list of violent felonies, the offenses of willful flight or attempt to elude a pursuing peace officer, while operating a motor vehicle, or doing the same with willful or wanton disregard for the safety of persons or property, as specified.

By amending provisions of an initiative statute, this bill would require a 2/3 vote of the Legislature.

Existing law requires the Commission on Peace Officer Standards and Training to implement a course or courses of instruction for the training of law enforcement officers in the handling of high-speed vehicle pursuits and to develop uniform, minimum guidelines for adoption by California law enforcement agencies for response to high-speed vehicle pursuits, as specified. Existing law provides that adoption and implementation of a pursuit policy with those guidelines as a minimum for the agency’s pursuit policy is discretionary.

This bill would make adoption and implementation of a pursuit policy, as specified, mandatory for law enforcement agencies.

By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

Existing law specifies certain content for examinations for a driver’s license.

This bill would require the Department of Motor Vehicles to include at least one question in each test of an applicant’s knowledge and understanding to verify that the applicant has an understanding of the risks and punishments associated with eluding a pursuing peace officer’s motor vehicle.

Existing law provides that any person who, while operating a motor vehicle and with the intent to evade, willfully flees or otherwise attempts to elude a pursuing peace officer’s motor vehicle, and certain conditions exist, is guilty of a misdemeanor.

This bill would increase the punishment for a violation to imprisonment in a county jail not exceeding one year, or in the state prison. The bill would also provide that any person who violates those provisions and who has a prior conviction for violating those provisions would be punishable as a felony.

By increasing the burden on local jail facilities and on local prosecutors, this bill would impose a state-mandated local program.

Existing law provides that if a person flees or attempts to elude a pursuing peace officer, as specified, and the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property, the person driving the vehicle, upon conviction, shall be punished by imprisonment in the state prison, or by confinement in the county jail for not less than 6 months nor more than one year. The court may also impose a fine of not less than \$1,000 nor more than \$10,000, or may impose both that imprisonment or confinement and fine.

This bill would increase the penalty to imprisonment in the state prison for 3, 5, or 7 years, and would eliminate the provisions authorizing imposition of a fine.

By increasing the burden on local prosecutors, this bill would impose a state-mandated local program.

Existing law provides that whenever willful flight or attempt to elude a pursuing peace officer, as specified, proximately causes death or serious bodily injury to any person, the person driving the pursued vehicle, upon conviction, shall be punished by imprisonment in the state prison for 3, 4, or 5 years, by imprisonment in the county jail for not more than one year, or by a fine of not less than \$2,000 nor more than \$10,000, or by both that fine and imprisonment.

This bill would increase the penalty to imprisonment in the state prison for 5, 7, or 9 years, and would eliminate the provisions authorizing imposition of a fine.

By increasing the burden on local prosecutors, this bill would impose a state-mandated local program.

Existing law establishes the California Traffic Safety Program, to include state and local programs, as specified.

This bill would require all traffic safety programs that receive state funds and that include public awareness campaigns involving emergency vehicle operations to include in public awareness campaign, information on the risks to public safety of peace officer motor vehicle pursuits, and the penalties that may result from evading a peace officer.

Existing law provides that any public agency employing peace officers which adopts a written policy on vehicular pursuits, as specified, shall be immune from liability for civil damages for personal injury to or death of any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being, has been, or believes he or she is being or has been, pursued by a peace officer employed by the

public entity in a motor vehicle. Existing law makes adoption of a vehicle pursuit policy pursuant to these provisions discretionary.

This bill would make adoption and training pursuant to a vehicle pursuit policy mandatory, as specified, and would expand the items to be addressed by the policy, thereby imposing a state-mandated local program.

This bill would also provide that in all situations where a peace officer is operating a motor vehicle in an effort to apprehend a suspect and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer, the suspect would be strictly liable for the personal injury or death of any person, or damage to any property, resulting from the suspect's attempt to avoid capture.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13955 of the Government Code is
- 2 amended to read:
- 3 13955. Except as provided in Section 13956, a person shall be
- 4 eligible for compensation when all of the following requirements
- 5 are met:
- 6 (a) The person for whom compensation is being sought is any
- 7 of the following:
- 8 (1) A victim.
- 9 (2) A derivative victim.
- 10 (3) A person who is entitled to reimbursement for funeral,
- 11 burial, or crime scene cleanup expenses pursuant to subdivision
- 12 (i) of Section 13957.
- 13 (b) Either of the following conditions is met:

1 (1) The crime occurred within the State of California, whether
2 or not the victim is a resident of the State of California. This
3 paragraph shall apply only during those time periods during
4 which the board determines that federal funds are available to the
5 State of California for the compensation of victims of crime.

6 (2) Whether or not the crime occurred within the State of
7 California, the victim was any of the following:

8 (A) A resident of the State of California.

9 (B) A member of the military stationed in California.

10 (C) A family member living with a member of the military
11 stationed in California.

12 (c) If compensation is being sought for a derivative victim, the
13 derivative victim is a resident of California, or resident of another
14 state, who is any of the following:

15 (1) At the time of the crime was the parent, grandparent,
16 sibling, spouse, child, or grandchild of the victim.

17 (2) At the time of the crime was living in the household of the
18 victim.

19 (3) At the time of the crime was a person who had previously
20 lived in the household of the victim for a period of not less than
21 two years in a relationship substantially similar to a relationship
22 listed in paragraph (1).

23 (4) Is another family member of the victim, including, but not
24 limited to, the victim's fiancé or fiancée, and who witnessed the
25 crime.

26 (5) Is the primary caretaker of a minor victim, but was not the
27 primary caretaker at the time of the crime.

28 (d) The application is timely pursuant to Section 13953.

29 (e) (1) Except as provided in paragraph (2), the injury or
30 death was a direct result of a crime.

31 (2) Notwithstanding paragraph (1), no act involving the
32 operation of a motor vehicle, aircraft, or water vehicle that results
33 in injury or death constitutes a crime for the purposes of this
34 chapter, except when the injury or death from such an act was
35 any of the following:

36 (A) Intentionally inflicted through the use of a motor vehicle,
37 aircraft, or water vehicle.

38 (B) Caused by a driver who fails to stop at the scene of an
39 accident in violation of Section 20001 of the Vehicle Code.

1 (C) Caused by a person who is under the influence of any
2 alcoholic beverage or drug.

3 (D) Caused by a driver of a motor vehicle in the immediate act
4 of fleeing the scene of a crime in which he or she knowingly and
5 willingly participated.

6 (E) Caused by a person who commits vehicular manslaughter
7 in violation of subdivision (c) of Section 192 or Section 192.5 of
8 the Penal Code.

9 *(F) Caused by any party where a peace officer is operating a*
10 *motor vehicle in an effort to apprehend a suspect, and the*
11 *suspect is evading, fleeing, or otherwise attempting to elude the*
12 *peace officer.*

13 (f) As a direct result of the crime, the victim or derivative
14 victim sustained one or more of the following:

15 (1) Physical injury. The board may presume a child who has
16 been the witness of a crime of domestic violence has sustained
17 physical injury. A child who resides in a home where a crime or
18 crimes of domestic violence have occurred may be presumed by
19 the board to have sustained physical injury, regardless of whether
20 the child has witnessed the crime.

21 (2) Emotional injury and a threat of physical injury.

22 (3) Emotional injury, where the crime was a violation of any
23 of the following provisions:

24 (A) Section 261, 262, 271, 273a, 273d, 285, 286, 288, 288a,
25 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the
26 Penal Code.

27 (B) Section 270 of the Penal Code, where the emotional injury
28 was a result of conduct other than a failure to pay child support,
29 and criminal charges were filed.

30 (C) Section 261.5 of the Penal Code, and criminal charges
31 were filed.

32 (D) Section 278 or 278.5 of the Penal Code, where the
33 deprivation of custody as described in those sections has endured
34 for 30 calendar days or more. For purposes of this paragraph, the
35 child, and not the nonoffending parent or other caretaker, shall be
36 deemed the victim.

37 (g) The injury or death has resulted or may result in pecuniary
38 loss within the scope of compensation pursuant to Sections
39 13957 to 13957.9, inclusive.

40 SEC. 2. Section 667.5 of the Penal Code is amended to read:

1 667.5. Enhancement of prison terms for new offenses because
2 of prior prison terms shall be imposed as follows:

3 (a) Where one of the new offenses is one of the violent
4 felonies specified in subdivision (c), in addition to and
5 consecutive to any other prison terms therefor, the court shall
6 impose a three-year term for each prior separate prison term
7 served by the defendant where the prior offense was one of the
8 violent felonies specified in subdivision (c). However, no
9 additional term shall be imposed under this subdivision for any
10 prison term served prior to a period of 10 years in which the
11 defendant remained free of both prison custody and the
12 commission of an offense which results in a felony conviction.

13 (b) Except where subdivision (a) applies, where the new
14 offense is any felony for which a prison sentence is imposed, in
15 addition and consecutive to any other prison terms therefor, the
16 court shall impose a one-year term for each prior separate prison
17 term served for any felony; provided that no additional term shall
18 be imposed under this subdivision for any prison term served
19 prior to a period of five years in which the defendant remained
20 free of both prison custody and the commission of an offense
21 which results in a felony conviction.

22 (c) For the purpose of this section, “violent felony” shall mean
23 any of the following:

24 (1) Murder or voluntary manslaughter.

25 (2) Mayhem.

26 (3) Rape as defined in paragraph (2) or (6) of subdivision (a)
27 of Section 261 or paragraph (1) or (4) of subdivision (a) of
28 Section 262.

29 (4) Sodomy by force, violence, duress, menace, or fear of
30 immediate and unlawful bodily injury on the victim or another
31 person.

32 (5) Oral copulation by force, violence, duress, menace, or fear
33 of immediate and unlawful bodily injury on the victim or another
34 person.

35 (6) Lewd acts on a child under the age of 14 years as defined
36 in Section 288.

37 (7) Any felony punishable by death or imprisonment in the
38 state prison for life.

39 (8) Any felony in which the defendant inflicts great bodily
40 injury on any person other than an accomplice which has been

1 charged and proved as provided for in Section 12022.7 or
2 12022.9 on or after July 1, 1977, or as specified prior to July 1,
3 1977, in Sections 213, 264, and 461, or any felony in which the
4 defendant uses a firearm which use has been charged and proved
5 as provided in Section 12022.5 or 12022.55.

6 (9) Any robbery.

7 (10) Arson, in violation of subdivision (a) or (b) of Section
8 451.

9 (11) The offense defined in subdivision (a) of Section 289
10 where the act is accomplished against the victim's will by force,
11 violence, duress, menace, or fear of immediate and unlawful
12 bodily injury on the victim or another person.

13 (12) Attempted murder.

14 (13) A violation of Section 12308, 12309, or 12310.

15 (14) Kidnapping.

16 (15) Assault with the intent to commit mayhem, rape, sodomy,
17 or oral copulation, in violation of Section 220.

18 (16) Continuous sexual abuse of a child, in violation of
19 Section 288.5.

20 (17) Carjacking, as defined in subdivision (a) of Section 215.

21 (18) A violation of Section 264.1.

22 (19) Extortion, as defined in Section 518, which would
23 constitute a felony violation of Section 186.22 of the Penal Code.

24 (20) Threats to victims or witnesses, as defined in Section
25 136.1, which would constitute a felony violation of Section
26 186.22 of the Penal Code.

27 (21) Any burglary of the first degree, as defined in subdivision
28 (a) of Section 460, wherein it is charged and proved that another
29 person, other than an accomplice, was present in the residence
30 during the commission of the burglary.

31 (22) Any violation of Section 12022.53.

32 (23) A violation of subdivision (b) or (c) of Section 11418.

33 (24) *A violation of Section 2800.3 of the Vehicle Code.*

34 The Legislature finds and declares that these specified crimes
35 merit special consideration when imposing a sentence to display
36 society's condemnation for these extraordinary crimes of
37 violence against the person.

38 (d) For the purposes of this section, the defendant shall be
39 deemed to remain in prison custody for an offense until the
40 official discharge from custody or until release on parole,

1 whichever first occurs, including any time during which the
2 defendant remains subject to reimprisonment for escape from
3 custody or is reimprisoned on revocation of parole. The
4 additional penalties provided for prior prison terms shall not be
5 imposed unless they are charged and admitted or found true in
6 the action for the new offense.

7 (e) The additional penalties provided for prior prison terms
8 shall not be imposed for any felony for which the defendant did
9 not serve a prior separate term in state prison.

10 (f) A prior conviction of a felony shall include a conviction in
11 another jurisdiction for an offense which, if committed in
12 California, is punishable by imprisonment in the state prison if
13 the defendant served one year or more in prison for the offense in
14 the other jurisdiction. A prior conviction of a particular felony
15 shall include a conviction in another jurisdiction for an offense
16 which includes all of the elements of the particular felony as
17 defined under California law if the defendant served one year or
18 more in prison for the offense in the other jurisdiction.

19 (g) A prior separate prison term for the purposes of this
20 section shall mean a continuous completed period of prison
21 incarceration imposed for the particular offense alone or in
22 combination with concurrent or consecutive sentences for other
23 crimes, including any reimprisonment on revocation of parole
24 which is not accompanied by a new commitment to prison, and
25 including any reimprisonment after an escape from incarceration.

26 (h) Serving a prison term includes any confinement time in
27 any state prison or federal penal institution as punishment for
28 commission of an offense, including confinement in a hospital or
29 other institution or facility credited as service of prison time in
30 the jurisdiction of the confinement.

31 (i) For the purposes of this section, a commitment to the State
32 Department of Mental Health as a mentally disordered sex
33 offender following a conviction of a felony, which commitment
34 exceeds one year in duration, shall be deemed a prior prison
35 term.

36 (j) For the purposes of this section, when a person subject to
37 the custody, control, and discipline of the Director of Corrections
38 is incarcerated at a facility operated by the Department of the
39 Youth Authority, that incarceration shall be deemed to be a term
40 served in state prison.

(k) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

SEC. 3. Section 1192.7 of the Penal Code is amended to read:

1192.7. (a) Plea bargaining in any case in which the indictment or information charges any serious felony, any felony in which it is alleged that a firearm was personally used by the defendant, or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.

(b) As used in this section "plea bargaining" means any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

(c) As used in this section, "serious felony" means any of the following:

(1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) lewd or lascivious act on a child under the age of 14 years; (7) any felony punishable by death or imprisonment in the state prison for life; (8) any felony in which the defendant

1 personally inflicts great bodily injury on any person, other than
2 an accomplice, or any felony in which the defendant personally
3 uses a firearm; (9) attempted murder; (10) assault with intent to
4 commit rape or robbery; (11) assault with a deadly weapon or
5 instrument on a peace officer; (12) assault by a life prisoner on a
6 noninmate; (13) assault with a deadly weapon by an inmate; (14)
7 arson; (15) exploding a destructive device or any explosive with
8 intent to injure; (16) exploding a destructive device or any
9 explosive causing bodily injury, great bodily injury, or mayhem;
10 (17) exploding a destructive device or any explosive with intent
11 to murder; (18) any burglary of the first degree; (19) robbery or
12 bank robbery; (20) kidnapping; (21) holding of a hostage by a
13 person confined in a state prison; (22) attempt to commit a felony
14 punishable by death or imprisonment in the state prison for life;
15 (23) any felony in which the defendant personally used a
16 dangerous or deadly weapon; (24) selling, furnishing,
17 administering, giving, or offering to sell, furnish, administer, or
18 give to a minor any heroin, cocaine, phencyclidine (PCP), or any
19 methamphetamine-related drug, as described in paragraph (2) of
20 subdivision (d) of Section 11055 of the Health and Safety Code,
21 or any of the precursors of methamphetamines, as described in
22 subparagraph (A) of paragraph (1) of subdivision (f) of Section
23 11055 or subdivision (a) of Section 11100 of the Health and
24 Safety Code; (25) any violation of subdivision (a) of Section 289
25 where the act is accomplished against the victim's will by force,
26 violence, duress, menace, or fear of immediate and unlawful
27 bodily injury on the victim or another person; (26) grand theft
28 involving a firearm; (27) carjacking; (28) any felony offense,
29 which would also constitute a felony violation of Section 186.22;
30 (29) assault with the intent to commit mayhem, rape, sodomy, or
31 oral copulation, in violation of Section 220; (30) throwing acid or
32 flammable substances, in violation of Section 244; (31) assault
33 with a deadly weapon, firearm, machinegun, assault weapon, or
34 semiautomatic firearm or assault on a peace officer or firefighter,
35 in violation of Section 245; (32) assault with a deadly weapon
36 against a public transit employee, custodial officer, or school
37 employee, in violation of Sections 245.2, 245.3, or 245.5; (33)
38 discharge of a firearm at an inhabited dwelling, vehicle, or
39 aircraft, in violation of Section 246; (34) commission of rape or
40 sexual penetration in concert with another person, in violation of

1 Section 264.1; (35) continuous sexual abuse of a child, in
2 violation of Section 288.5; (36) shooting from a vehicle, in
3 violation of subdivision (c) or (d) of Section 12034; (37)
4 intimidation of victims or witnesses, in violation of Section
5 136.1; (38) criminal threats, in violation of Section 422; (39) any
6 attempt to commit a crime listed in this subdivision other than an
7 assault; (40) any violation of Section 12022.53; (41) a violation
8 of subdivision (b) or (c) of Section 11418; and (42) any
9 conspiracy to commit an offense described in this subdivision;
10 *(43) any felony conviction for violation of Section 2800.1 of the*
11 *Vehicle Code; (44) any violation of Section 2800.2 of the Vehicle*
12 *Code.*

13 (d) As used in this section, “bank robbery” means to take or
14 attempt to take, by force or violence, or by intimidation from the
15 person or presence of another any property or money or any other
16 thing of value belonging to, or in the care, custody, control,
17 management, or possession of, any bank, credit union, or any
18 savings and loan association.

19 As used in this subdivision, the following terms have the
20 following meanings:

21 (1) “Bank” means any member of the Federal Reserve System,
22 and any bank, banking association, trust company, savings bank,
23 or other banking institution organized or operating under the laws
24 of the United States, and any bank the deposits of which are
25 insured by the Federal Deposit Insurance Corporation.

26 (2) “Savings and loan association” means any federal savings
27 and loan association and any “insured institution” as defined in
28 Section 401 of the National Housing Act, as amended, and any
29 federal credit union as defined in Section 2 of the Federal Credit
30 Union Act.

31 (3) “Credit union” means any federal credit union and any
32 state-chartered credit union the accounts of which are insured by
33 the Administrator of the National Credit Union administration.

34 (e) The provisions of this section shall not be amended by the
35 Legislature except by statute passed in each house by rollcall
36 vote entered in the journal, two-thirds of the membership
37 concurring, or by a statute that becomes effective only when
38 approved by the electors.

39 SEC. 4. Section 13519.8 of the Penal Code is amended to
40 read:

13519.8. (a) The commission shall implement, on or before November 1, 1994, a course or courses of instruction for the training of law enforcement officers in the handling of high-speed vehicle pursuits and shall also develop uniform, minimum guidelines for adoption by California law enforcement agencies for response to high-speed vehicle pursuits. The guidelines and course of instruction shall stress the importance of vehicle safety and protecting the public at all times, include a regular assessment of law enforcement's vehicle pursuit policies, practices, and training, and recognize the need to balance the known offense and the need for immediate capture against the risks to officers and other citizens of a high-speed pursuit. *These guidelines shall be a resource for each executive to use in the creation of a specific policy the agency will adopt that reflects the needs of the agency and the jurisdiction it serves, and current law.*

As used in this section, "law enforcement officer" includes any ~~peace officer or employee~~ of a local police or sheriff's department or the California Highway Patrol, *or of any other law enforcement agency authorized by law to conduct vehicular pursuits.*

(b) The course or courses of basic training for law enforcement officers and the guidelines shall include adequate consideration of each of the following subjects:

- (1) When to initiate a pursuit.
- (2) The number of involved law enforcement units permitted.
- (3) Responsibilities of primary and secondary law enforcement units.
- (4) Driving tactics.
- (5) Helicopter assistance.
- (6) Communications.
- (7) Capture of suspects.
- (8) Termination of a pursuit.
- (9) Supervisory responsibilities.
- (10) Blocking, ramming, boxing, and roadblock procedures.
- (11) Speed limits.
- (12) Interjurisdictional considerations.
- (13) Conditions of the vehicle, driver, roadway, weather, and traffic.
- (14) Hazards to uninvolved bystanders or motorists.

1 (15) Reporting and postpursuit analysis.

2 (c) All law enforcement officers who have received their basic
3 training before January 1, 1995, shall participate in
4 supplementary training on high-speed vehicle pursuits, as
5 prescribed and certified by the commission.

6 ~~Local law~~

7 ~~Law enforcement agencies are encouraged to~~ *shall* include, as
8 part of their advanced officer training program, periodic updates
9 and training on high-speed vehicle pursuit. The commission shall
10 assist where possible.

11 (d) The course or courses of instruction, the learning and
12 performance objectives, the standards for the training, and the
13 guidelines shall be developed by the commission in consultation
14 with appropriate groups and individuals having an interest and
15 expertise in the field of high-speed vehicle pursuits. The groups
16 and individuals shall include, but not be limited to, law
17 enforcement agencies, police academy instructors, subject matter
18 experts, and members of the public.

19 The commission, in consultation with these groups and
20 individuals, shall review existing training programs to determine
21 the ways in which high-speed pursuit training may be included as
22 part of ongoing programs.

23 ~~(e) It is the intent of the Legislature that all local law~~
24 ~~enforcement agencies adopt the minimum guidelines on~~
25 ~~high-speed vehicle pursuit developed by the commission. Every~~
26 ~~law enforcement agency shall adopt and implement a pursuit~~
27 ~~policy with these guidelines as a minimum for the agency's~~
28 ~~pursuit policy.~~

29 SEC. 5. Section 1666.1 is added to the Vehicle Code, to read:

30 1666.1. The department shall include at least one question in
31 each test, as administered under Section 12804.9, of an
32 applicant's knowledge and understanding of this code to verify
33 that the applicant has an understanding of the risks and
34 punishments associated with eluding a pursuing peace officer's
35 motor vehicle.

36 SEC. 6. Section 2800.1 of the Vehicle Code is amended to
37 read:

38 2800.1. (a) Any person who, while operating a motor vehicle
39 and with the intent to evade, willfully flees or otherwise attempts
40 to elude a pursuing peace officer's motor vehicle, is ~~guilty of a~~

1 ~~misdemeanor~~ punishable by imprisonment in a county jail not
2 exceeding one year, or in the state prison, if all of the following
3 conditions exist:

4 (1) The peace officer's motor vehicle is exhibiting at least one
5 lighted red lamp visible from the front and the person either sees
6 or reasonably should have seen the lamp.

7 (2) The peace officer's motor vehicle is sounding a siren as
8 may be reasonably necessary.

9 (3) The peace officer's motor vehicle is distinctively marked.

10 (4) The peace officer's motor vehicle is operated by a peace
11 officer, as defined in Chapter 4.5 (commencing with Section 830)
12 of Title 3 of Part 2 of the Penal Code, and that peace officer is
13 wearing a distinctive uniform.

14 (b) *Any person who violates subdivision (a) and who has a*
15 *prior conviction for violating subdivision (a) is punishable as a*
16 *felony.*

17 (c) Any person who, while operating a motor vehicle and with
18 the intent to evade, willfully flees or otherwise attempts to elude
19 a pursuing peace officer's bicycle, is guilty of a misdemeanor if
20 the following conditions exist:

21 (1) The peace officer's bicycle is distinctively marked.

22 (2) The peace officer's bicycle is operated by a peace officer,
23 as defined in paragraph (4) of subdivision (a), and that peace
24 officer is wearing a distinctive uniform.

25 (3) The peace officer gives a verbal command to stop.

26 (4) The peace officer sounds a horn that produces a sound of at
27 least 115 decibels.

28 (5) The peace officer gives a hand signal commanding the
29 person to stop.

30 (6) The person is aware or reasonably should have been aware
31 of the verbal command, horn, and hand signal, but refuses to
32 comply with the command to stop.

33 SEC. 7. Section 2800.2 of the Vehicle Code is amended to
34 read:

35 2800.2. (a) If a person flees or attempts to elude a pursuing
36 peace officer in violation of Section 2800.1 and the pursued
37 vehicle is driven in a willful or wanton disregard for the safety of
38 persons or property, the person driving the vehicle, upon
39 conviction, shall be punished by imprisonment in the state prison;
40 ~~or by confinement in the county jail for not less than six months~~

1 ~~nor more than one year. The court may also impose a fine of not~~
2 ~~less than one thousand dollars (\$1,000) nor more than ten~~
3 ~~thousand dollars (\$10,000), or may impose both that~~
4 ~~imprisonment or confinement and fine for three, five, or seven~~
5 ~~years.~~

6 (b) For purposes of this section, a willful or wanton disregard
7 for the safety of persons or property includes, but is not limited
8 to, driving while fleeing or attempting to elude a pursuing peace
9 officer during which time either three or more violations that are
10 assigned a traffic violation point count under Section 12810
11 occur, or damage to property occurs.

12 SEC. 8. Section 2800.3 of the Vehicle Code is amended to
13 read:

14 2800.3. (a) Whenever willful flight or attempt to elude a
15 pursuing peace officer in violation of Section 2800.1 proximately
16 causes death or serious bodily injury to any person, the person
17 driving the pursued vehicle, upon conviction, shall be punished
18 by imprisonment in the state prison for ~~three, four, or five years,~~
19 ~~by imprisonment in the county jail for not more than one year, or~~
20 ~~by a fine of not less than two thousand dollars (\$2,000) nor more~~
21 ~~than ten thousand dollars (\$10,000), or by both that fine and~~
22 ~~imprisonment five, seven, or nine years.~~

23 (b) For purposes of this section, “serious bodily injury” has the
24 same meaning as defined in paragraph (4) of subdivision (f) of
25 Section 243 of the Penal Code.

26 SEC. 9. Section 2911 is added to the Vehicle Code, to read:

27 2911. All traffic safety programs that receive state funds and
28 that include public awareness campaigns involving emergency
29 vehicle operations should include in public awareness campaign,
30 information on the risks to public safety of peace officer motor
31 vehicle pursuits, and the penalties that may result from evading a
32 peace officer.

33 SEC. 10. Section 17004.7 of the Vehicle Code is amended to
34 read:

35 17004.7. (a) The immunity provided by this section is in
36 addition to any other immunity provided by law. ~~The adoption~~
37 ~~of a policy by a public agency pursuant to this section is~~
38 ~~discretionary~~ Every public agency that employs peace officers to
39 drive emergency vehicles and authorizes vehicle pursuits shall

1 *develop, adopt, and provide training for, a policy meeting the*
2 *requirements set forth in subdivision (c).*

3 (b) A public agency employing peace officers which adopts a
4 written policy on, *and provides training for*, vehicular pursuits
5 complying with subdivision (c) is immune from liability for civil
6 damages for personal injury to or death of any person or damage
7 to property resulting from the collision of a vehicle being
8 operated by an actual or suspected violator of the law who is
9 being, has been, or believes he or she is being or has been,
10 pursued by a peace officer employed by the public entity in a
11 motor vehicle.

12 (c) ~~If the public entity has adopted a~~ A policy for the safe
13 conduct of vehicular pursuits by peace officers, ~~it shall meet all~~
14 ~~of the following minimum standards:~~

15 ~~(1) It provides that, if available, there be supervisory control of~~
16 ~~the pursuit.~~

17 ~~(2) It provides procedures for designating the primary pursuit~~
18 ~~vehicle and for determining the total number of vehicles to be~~
19 ~~permitted to participate at one time in the pursuit.~~

20 ~~(3) It provides procedures for coordinating operations with~~
21 ~~other jurisdictions.~~

22 ~~(4) It provides guidelines for determining when the interests of~~
23 ~~public safety and effective law enforcement justify a vehicular~~
24 ~~pursuit and when a vehicular pursuit should not be initiated or~~
25 ~~should be terminated.~~

26 *(1) Provide procedures for determining under what*
27 *circumstances to initiate a pursuit.*

28 *(2) Provide for the determination of the total number of law*
29 *enforcement vehicles authorized to participate in a pursuit.*

30 *(3) Provide procedures for determining the types, roles, and*
31 *responsibilities of participating law enforcement units.*

32 *(4) Provide procedures for determining communications*
33 *procedures and responsibilities.*

34 *(5) Require supervisory control of the pursuit, if available,*
35 *and specify supervisory responsibilities.*

36 *(6) Provide guidelines for appropriate driving tactics,*
37 *including consideration of vehicle capabilities, road conditions,*
38 *weather, other traffic, and pedestrians.*

39 *(7) Provide guidelines for the use of authorized pursuit*
40 *intervention techniques.*

1 (8) *Provide procedures for the use of available air support.*

2 (9) *Provide guidelines for ongoing assessment of the risks of*
3 *continuing a pursuit, and procedures for the termination of a*
4 *pursuit. Termination considerations shall include procedures for*
5 *identified suspects when later apprehension is possible,*
6 *circumstances requiring special safety considerations, including*
7 *school zones, and procedures for when a pursued vehicle's*
8 *location is no longer definitely known.*

9 (10) *Provide procedures to facilitate effective coordination,*
10 *management, and control of interjurisdictional pursuits.*

11 (11) *Provide guidelines for postpursuit responsibilities and*
12 *coordination.*

13 (12) *Provide for reporting and postpursuit analysis as*
14 *required by Section 14602.1.*

15 (13) *Provide for annual policy reviews.*

16 (d) A determination of whether a *public agency has complied*
17 *with subdivision (b) or whether a policy adopted pursuant to*
18 *subdivision (c) complies with that subdivision is a question of*
19 *law for the court.*

20 SEC. 11. Section 17005 is added to the Vehicle Code, to read:

21 17005. In all situations where a peace officer is operating a
22 motor vehicle in an effort to apprehend a suspect and the suspect
23 is evading, fleeing, or otherwise attempting to elude the peace
24 officer, the suspect shall be strictly liable for the personal injury
25 or death of any person, or damage to any property, resulting from
26 the suspect's attempt to avoid capture.

27 SEC. 12. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution for
29 certain costs that may be incurred by a local agency or school
30 district because, in that regard, this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the
32 penalty for a crime or infraction, within the meaning of Section
33 17556 of the Government Code, or changes the definition of a
34 crime within the meaning of Section 6 of Article XIII B of the
35 California Constitution.

36 However, if the Commission on State Mandates determines
37 that this act contains other costs mandated by the state,
38 reimbursement to local agencies and school districts for those
39 costs shall be made pursuant to Part 7 (commencing with Section
40 17500) of Division 4 of Title 2 of the Government Code.

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